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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

DAVID M. CATHCART, JAMES H.
WHITEHEAD, ROBERT W. DECKER,
DALE BALDISSERI, individually, and
on behalf of all others similarly situated,

Plaintiff,

v.

SARA LEE CORPORATION, SARA
LEE BAKERY GROUP,
EARTHGRAINS BAKING
COMPANIES, INC. (formerly sued as
DOE 1) and DOES 2 through 20,

Defendants.

Case No. CV 09-5748 MMC

**~~[AMENDED PROPOSED]~~ ORDER
GRANTING:**

**(1) PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT;**

**(2) PRELIMINARY
CERTIFICATION OF THE CLASS
FOR SETTLEMENT;**

**(3) APPROVAL OF THE FORM
AND METHOD OF NOTICE; AND**

**(4) THE SCHEDULING OF A
FINAL APPROVAL HEARING**

On August 3, 2012, the Court heard a motion by David M. Cathcart, James H. Whitehead, Robert W. Decker, and Dale Baldisseri (collectively “Plaintiffs” or “Class Representatives”) for preliminary approval of the parties’ proposed settlement. The Court has read and considered Plaintiffs’ unopposed motion for preliminary approval, the declarations submitted in support thereof, the attached exhibits and all papers filed in support of the motion, along with the arguments presented by counsel at the preliminary approval hearing, and hereby finds and orders as follows:

The Court finds on a preliminary basis that the settlement memorialized in the Joint Stipulation of Class Settlement and Release (“Stipulation”), filed with the Court and attached at Exhibit “1” to the Declaration of Jennifer L. Connor (“Connor Decl.”) filed in support of Plaintiffs’ Unopposed Motion For Preliminary Approval Of Class Action Settlement (the “Motion”), falls within the range of reasonableness and, therefore, meets the requirements for preliminary approval.

The Court conditionally certifies, for settlement purposes only, the following class (“Class”) described in the Stipulation: All individuals employed by Defendant Earthgrains Baking Companies, Inc. (“Earthgrains”) or alleged to be employed by the other Defendants in the position of “Route Sales Representative” or “Driver Salesman” – as defined in the two collective bargaining agreements (CBAs) that have been addressed in this action – for one or more days between December 8, 2005 and the Preliminary Approval Date.

The Court finds, for settlement purposes only, the requirements of Federal Rule of Civil Procedure 23(a) and Federal Rule of Civil Procedure 23(b)(3) are satisfied, with the exception of the manageability requirement of Rule 23(b)(3) that the Court need not address for purposes of settlement. The Court further finds, for settlement purposes only, that conditional certification of the Action as a collective action under section 216(b) of the Fair Labor Standards Act (“FLSA”) is appropriate.

This Order, which conditionally certifies a class action for settlement purposes only, shall not be cited in this or any matter for the purpose of seeking class or collective certification, opposing decertification, or for any other purpose, other than enforcing the terms of the Stipulation.

The Court appoints, for settlement purposes only, David M. Cathcart, James H. Whitehead, Robert W. Decker, and Dale Baldisseri as Class Representatives.

The Court appoints, for settlement purposes only, Ira Spiro and Jennifer Connor of Spiro Moore LLP and Joseph J. Gigliotti of Gigliotti & Gigliotti, LLP as Class Counsel for the purposes of settlement and the releases and other obligations therein. Simpluris, Inc. is appointed as Settlement Administrator.

The Class Notice, attached at Exhibit "2" to Connor Decl. and the Claim Form, attached at Exhibit "3" to Connor Decl. filed in support of the Motion are approved. Further, the Settlement Administrator letter regarding inconsistent documentation and Change of Name and/or Address Information Form, attached at Exhibit "4" and Exhibit "5" to Connor Decl., respectively, are approved. The Settlement Administrator is ordered to mail those documents to the Class Members as provided in the Stipulation.


The Court will conduct a Final Approval Hearing to determine the overall fairness of the settlement, attorneys' fees and costs to Class Counsel, and enhancements to the Plaintiffs. The Final Approval Hearing may be continued without further notice to Class Members. All parties are to follow the schedule deadline set forth below:

August 23, 2012	Defendants to provide Class Member list to Settlement Administrator and Class Counsel
August 30, 2012	Settlement Administrator shall mail Notice Of Settlement Of Class Action by First Class U.S. Mail To Class Members
September 24, 2012	Class Counsel to file Motion For Attorneys' Fees And Costs And To Post Such Motion On Settlement Administrator Website

1	October 5, 2012	Settlement Administrator shall mail the
2		Reminder Notice Of Settlement Of Class
3		Action
4	October 29, 2012	Last day for Class Members to opt-out or to
5		object to the Settlement
6	October 29, 2012	Last day for Class Members to timely
7		submit a Claim Form
8	November 5, 2012	Settlement Administrator to provide
9		counsel for Plaintiffs and Defendants
10		declaration verifying mailing and Class
11		Member participation
12	November 16, 2012	Last day for filing and serving papers in
13		moving for and in support of Final
14		Approval of Settlement, along with
15		application for any Fees/Expenses and
16		Class Representative Payments to Class
17		Representatives
18	December 14, 2012 at 9:00 a.m.	Final Approval Hearing
19		

20 **IT IS SO ORDERED.**

21
22 Dated: August 10, 2012

23 
The Honorable Maxine M. Chesney
United States District Court Judge